

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
DOCKET NO. 5:09CR27-RLV**

UNITED STATES OF AMERICA)
)
v.)
)
BERNARD VON NOTHAUS)
_____)

In re: PETITION OF DANIEL PRIEST

**ORDER GRANTING IN PART AND DISMISSING IN PART
PETITION OF DANIEL PRIEST**

WHEREAS, on November 10, 2014, the Court entered a Memorandum and Order (Doc. 270) affirming the jury's verdicts of guilty to Counts One, Two, and Three in the Superseding Bill of Indictment.

WHEREAS, on February 25, 2015, the Court entered the Amended (Third) Preliminary Order of Forfeiture (Doc. 297) forfeiting certain coins, metals, and other property to the United States.

WHEREAS, Daniel Priest filed two Petitions (Docs. 487 & 508) claiming ownership of a total of 1 ounce of gold from warehouse receipts, a total of 48.6 ounces of silver from warehouse receipts, \$8,188.65 in electronic Liberty Dollars equal to 409.4325 ounces of silver, and one thousand (1,000) \$10 silver Peace Dollars.

WHEREAS, Petitioner's claims for 1 ounce of gold from warehouse receipts, a total of 48.6 ounces of silver from warehouse receipts, and \$8,188.65 in electronic Liberty Dollars equal to 409.4325 ounces of silver are based on documentation and/or a plausible factual explanation that comports with the information known to the United States and Court and that satisfies 21 U.S.C. § 853(n)(6), and the United States moves that the aforementioned portion be granted.

WHEREAS, the Petitioner also claims, is part, one thousand (1,000) \$10 silver Peace Dollars, purchased in October of 2007, that the United States contends in its Motion was previously finally forfeited to the United States as contraband *per se*.

WHEREAS, based on the evidence, the Court has ruled in this case that coins minted after the warning by the United States Mint to the Liberty dollar organization and the Defendant on September 14, 2006, were counterfeit. *See* Memorandum and Order, at 7 (Doc. 270; Memorandum and Order (First Preliminary Order of Forfeiture) at 18 (Doc. 285).

WHEREAS, the Court has ruled in this case that “Items that are considered ‘contraband’ or ‘counterfeit’ under Section 492 are deemed illegal *per se* and automatically forfeited without having to satisfy the otherwise applicable forfeiture procedures.” Memorandum and Order (First Preliminary Order of Forfeiture) at 11 n. 10 (Doc. 285) (citing *Helton v. Hunt*, 330 F.3d 242, 247–48 (4th Cir. 2003)). The Court has further defined contraband in this case as “properties that no person or entity other than the United States may have a property right or interest in them.” Consent Order and Judgment of Forfeiture, Doc. 296.

IT IS THEREFORE ORDERED:

1. That the Petition of Daniel Priest is granted in part, with said portion to be granted consisting of 5 ounces of gold from warehouse receipts, a total of 381 13/20 ounces of silver from warehouse receipts, and \$18,000.00 in electronic Liberty Dollars equal to 900 ounces of silver from warehouse receipts. This portion is granted based on information known to the United States and Court, and which satisfies 21 U.S.C. § 853(n)(6), and;
2. That the Petitioner is ordered to send the original warehouse receipts to the United States at the address:

United States v. Bernard Von Nothaus
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3. That the Petition of Daniel Priest is dismissed in part, said portion to be dismissed consisting of the claim for one thousand (1,000) \$10 silver Peace Dollars, because the claim is for coins bearing the "Liberty" marking minted in 2007. Said coins have been determined to be contraband *per se*. Therefore, pursuant to Fed. R. Crim. P. 32.2(c)(1)(A), this portion of the Petition is dismissed for the reason that the Petition fails to state a claim upon which relief may be granted and Petitioner does not have standing.
4. Distribution of property by the United States to the Petitioners shall not occur until a final order of forfeiture is entered by the Court.

SO ORDERED.

Signed: December 21, 2015



Richard L. Voorhees
United States District Judge

